



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 24, 1998

Mr. Hollis D. Young
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR98-1758

Dear Mr. Young:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 116817.

The San Antonio Metropolitan Health District (the "district") received a request for the names of individuals who died in Bexar County, their next of kin, and the number of deaths by funeral home. You state that the district is the local registration official for the Texas Department of Health and maintains death certificates for Bexar County. You claim that since the requested information is derived from death certificates, it is a "death record" protected from disclosure by section 552.115 of the Government Code. We have considered the exception you claim and reviewed the information at issue.

Section 552.115 provides that a death record maintained by the bureau of vital statistics of the Texas Department of Health [or a local registration official] is excepted from required public disclosure "except that a death record is public information and available to the public on and after the 25th anniversary of the date on which the record is filed with the bureau of vital statistics or local registration official." After careful review, we conclude that the submitted information is protected by section 552.115 and must be withheld from required public disclosure.

You state that the district also received a verbal request for the names, numbers, and next of kin of those individuals who died and were transported to funeral homes in Bexar County from January 1, 1998 to the present. You state that a report of this information does not exist at this time and the district would have to prepare a new report in order to satisfy this request. We note that the Open Records Act does not require a governmental body to

make available information which does not exist nor does it require a governmental body to prepare new information. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.--San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 (1992), 362 (1983). The district must, nevertheless, make a good faith effort to relate a request to information which it holds. Open Records Decision Nos. 561 (1990), 87 (1975); see Gov't Code § 552.353 (providing penalties for failure to permit access to public information). As the requestor seeks information which has not been created, the district need not comply with the verbal request.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 116817

Enclosures: Submitted documents

cc: Mr. Steve Spriester
Anchor/Reporter
KSAT 12 News
1408 N. St. Mary's
San Antonio, Texas 78215
(w/o enclosures)

¹We note that a verbal request does not trigger the Open Records Act. Gov't Code § 552.301(a); Open Records Decision No. 304 (1982).